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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re AISLINN L. et al., Persons Coming  
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES  
AGENCY,

Plaintiff and Respondent,

v.

JASON L., SR., et al.,

Defendants and Appellants.

G031545

(Super. Ct. Nos. J425225, J425226,  
J425227, DP003924, DP003925,  
DP003926 & DP004109)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Corey S. Cramin, Judge. Affirmed.

Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant Jason L., Sr.

Peter Ferrera, under appointment by the Court of Appeal, for Defendant and Appellant Lisa L.

Benjamin P. de Mayo, County Counsel, and Jeannie Su, Deputy County Counsel, for Plaintiff and Respondent.

Jennifer Mack, under appointment by the Court of Appeal, for Minor  
Jason L.

Melissa A. Chaitin, under appointment by the Court of Appeal, for Minor  
Hanna L.

Sharon M. Jones, under appointment by the Court of Appeal, for Minors  
Aislinn L., Courtney L., Justin L., and Ryan L.

Paoli & Paoli and Sylvia L. Paoli, under appointment by the Court of  
Appeal, for Minor Tyler M.

\* \* \*

Lisa L. and Jason L., Sr., appeal the order made at the permanency planning hearing (Welf. & Inst. Code, § 366.26)<sup>1</sup> terminating parental rights to their seven children and ordering them placed for adoption. They contend there is insufficient evidence to support the finding of adoptability, and the court erred in finding inapplicable the sibling benefit exception to adoption as the preferred permanent plan. Jason, Sr., additionally argues the children were deprived of effective assistance of counsel, and the court failed to order sibling visitation. We reject their contentions and affirm.

## I

In an unpublished opinion we affirmed the jurisdictional and dispositional orders adjudging Lisa and Jason, Sr.'s, children dependent children pursuant to section 300, primarily due to filthy and unsanitary condition of the home, removing the children from the parents' custody and placing them in custody of the Orange County Social Services Agency (SSA). (*Orange County Social Services Agency v. Jason L. et al* (Nov. 9, 2001 G028792).) We incorporate the facts sets forth in that opinion and only briefly summarize the events that led to dependency. Because the issues raised in this appeal

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

concern the adoptability of the five older children and the siblings' relationships with one another, the discussion of the facts will focus on those matters.

In November 2000, then 12-year-old Aislinn, 10-year-old Courtney, 9-year-old Jason, Jr., 7-year-old Justin, 4-year-old Ryan, and 2-year-old Hanna were taken into protective custody due to the unsafe and unhealthy condition of their home. The home was filthy—cluttered with trash, food, and dirty clothes. The house was infested with cockroaches; open containers of food lay around with live and dead bugs in them. Tyler, who was born in January 2001, was immediately taken into protective custody as well. There were numerous substantiated reports of general neglect involving the family, beginning in 1991. A 1992 dependency proceeding was dismissed once the parents cleaned up the house, but the problems soon returned.

The current proceedings began after school officials reported the children were being neglected. The conditions the police discovered at the family home were so deplorable that criminal child neglect charges were filed against Lisa and Jason, Sr. For their parts, the parents either denied there were any problems or blamed them on the children.

At first, the children denied any problems at home, but as time passed they began to be more candid about their wretched home lives. They reported a baby sibling had died in the family home at around six months of age from sudden infant death syndrome. The parents permitted unrelated adult men to stay in the home and there was domestic violence between the parents. One of the men who stayed in the home, “Jesse,” frequently “slept” with Lisa on the couch. Jesse routinely hit the boys with a belt when they misbehaved—often at the parents’ invitation.

Eventually, the children began to reveal details of extensive physical and sexual abuse going on in the home. Aislinn, Courtney, Jason, Jr., and Justin reported being repeatedly sexually abused by their father. Two girls, who were family friends, told Aislinn they too had been sexually molested by Jason, Sr. Jason, Jr., and Justin were

molesting their younger brother Ryan. Jason, Jr., was abused sexually and physically by at least one of the transient men; all of the six older children reported physical abuse by the transient men and by their parents. Aislinn and Courtney reported that Lisa practiced witchcraft or paganism, talked about ghosts and demons living in the home, and when angry would injure herself in front of the children.

Tyler was placed in a medical foster home. Courtney and Hanna were in the foster home of “Linda and Brett.” Aislinn, Jason, Jr., Justin and Ryan were placed together in the foster home of “Carol and Arthur.” Courtney was later moved to Carol and Arthur’s foster home with the older children.

Little needs to be said about the parents’ visitation and compliance with the service plan up to the permanency planning hearing. Suffice it to say both were originally given services, but services for Jason, Sr., were terminated when the extent of the sexual and physical abuse became known. Weekly visits between the parents and the children were authorized, taking into account the children’s wishes and their therapists’ recommendations. Eventually, parental visits with Ryan and Hannah were suspended at the insistence of the therapists. Lisa maintained weekly visits with Tyler.

In earlier stages of the dependency proceeding the older five siblings were having regular visits with Hannah and Tyler in the context of family visits. After it was suggested that Jason, Jr., may have sexually molested Hannah during a visit, her visits with the siblings were curtailed. As family visits began to fall off, the social worker encouraged the foster parents to arrange sibling visits. The visits occurred occasionally. In June 2002, at the 18-month review, the court ordered weekly sibling visits, but in reality the older children’s visits with Hannah and Tyler were infrequent.

The permanency planning hearing commenced in October 2002, but when minors’ counsel declared a conflict and new counsel was appointed the hearing was continued to November. During the one month break in the permanency planning hearing, weekly visits between the siblings took place and all of the caretakers cooperated

fully in the visits. The social worker reported that the children benefited from visits with each other. Hanna appeared to have her strongest relationships with Aislinn and Courtney. Jason behaved appropriately. Justin and Ryan kept to themselves during visits. Tyler did not have a strong bond with any of the siblings because he had not had much contact with them.

The social worker recommended finding the children were adoptable. The five older children were still living with Carol and Art, who wanted to adopt all five. Hanna was still living with Linda and Brett, who want to adopt her. Tyler had been placed in a prospective adoptive home. All of the caretakers indicated they were willing to continue sibling visitation after adoption. During the course of the permanency hearing, an uncle came forward who indicated he would like to adopt all seven children, if the current placements failed.

The social worker reported that the five older children were extremely attached to Carol and Art, with whom they had lived for nearly two years, and who in turn were committed and devoted as caretakers, and as prospective parents. The children referred to Carol and Art as “Mom” and “Dad,” and all of the five older children stated they wanted to be adopted by them. The five older children wanted nothing to do with their parents. The social worker reported that the home assessment had not been completed. Criminal history records had been completed and there were “no findings on the adults in the household, except the prospective adoptive mother. Therefore, the Kinship Center is taking 60 days to investigate the findings.” The social worker testified it was often difficult to find a prospective adoptive home when multiple siblings were involved and the children had beneficial relationships with each other.

In the report for the permanency planning hearing, the social worker stated the likelihood of adoption for all seven children was high. By September 2001, Aislinn (age 13) had refused any contact with her parents. She was healthy and developmentally on target. In earlier reports, Aislinn’s therapist described her as being “parentified” and

said she displayed “inappropriate boundaries” in therapy. By the time of the permanency planning report in October 2002, she was described as performing well in school, having some difficulty in making friends with other girls, and doing well in her continuing therapy to address the issues of sexual abuse by Jason, Sr.

Courtney (age 12) also had refused further contact with her parents around September 2001. The report for the permanency planning hearing described her as healthy, developmentally on target, and doing well in school. Her foster parents had to work with Courtney on her “hygiene practices” which were “sub par.” Courtney was doing well in therapy and addressing the issues of sexual abuse. She showed a certain “numbing of her emotions.”

Jason, Jr., (age 11) had many emotional difficulties. Earlier in the dependency process he had issues with inappropriate physical contact with adults and other children—there had been reports he had sexually molested his youngest sister Hannah. In a January 2002 report, he was described as suffering from posttraumatic stress disorder from living in a highly sexualized environment. In the October 2002 report for the permanency planning hearing, Jason, Jr., was described as healthy and developmentally on target. He was having difficulties in school, but his foster parents had hired a private tutor to assist him. Jason, Jr., was doing well in his placement. He had initially required a high level of supervision, but that need had lessened. He felt safe in the foster parents’ home. His tendency to inappropriately touch adults and children had almost disappeared. He was still in therapy and doing well, although he carried “a lot of shame” about having lived in such a filthy home and being dirty all the time, his therapist reported his feelings of shame were decreasing. Nonetheless, he continued to be diagnosed with posttraumatic stress disorder.

Early on, Justin (age nine) had been diagnosed as mildly autistic. In January 2001, the social worker reported he would “tune out,” could not be interviewed, was highly sensitive to noises, had undergone personality changes including fighting in

school and simulating sexual acts. He was receiving speech therapy at school. In October 2002, SSA requested that both Justin and Ryan have special brain scans because of their “severe emotional disturbances.” The court denied the request because the tests were not medically necessary. The report for the permanency planning hearing described Justin as healthy, although he had scarring in his ears from untreated ear infections and needed further hearing evaluation.

Justin was diagnosed with posttraumatic stress disorder and pervasive development disorder. He was taking Prozac. Although he still had autistic traits, such as hopping around and fixating on objects, the Regional Center of Orange County determined the problems did not qualify him for its services. His teachers denied that he displayed any autistic traits in class. He was an excellent student and had been placed in a program for mentally gifted students. He was receiving speech therapy at school. Justin had adjusted well to his foster home, had made great progress in therapy, had ceased engaging in “suicidal speech,” and “pain-inducing behavior” or temper tantrums.

Ryan (age six) had been diagnosed with posttraumatic stress disorder, detachment disorder, attention deficit hyperactivity disorder, and possibly suffered from obsessive compulsive disorder. In June 2001, the court authorized use of psychotropic medications when Ryan’s behavioral problems increased. He threw temper tantrums and had scratched the foster mother. He had been elevated to a high level of supervision. Parental visits were halted, at his therapist’s recommendation, because they were highly detrimental to Ryan’s emotional health. Ryan became violent and had nightmares after visits. He did not want to have telephone calls with the parents. Once parental visits stopped, Ryan’s behavior dramatically improved.

By January 2002, the social worker reported, Ryan’s behavior continued to improve, regressing whenever he had telephone calls from his parents, and his detachment disorder symptoms had essentially disappeared. In the October 2002 report for the permanency planning hearing, the social worker reported Ryan’s therapist

explained Ryan could not handle change and needed a stable environment. He hits and growls when upset, and still displayed some obsessive and compulsive behavior.

Hannah (age four) suffered from asthma. Early in the dependency proceeding, the foster mother reported Hannah masturbated excessively and the foster mother suspected possible sexual abuse of Hannah by Jason, Jr. She was developing normally, but regressed after visits with Lisa. In June 2002, a therapist reported Hannah suffered from posttraumatic stress disorder and acted out sexually. Hannah's foster parents wanted to adopt her and she was strongly bonded with them. She was well adjusted to her foster home, but still had problems with acting out sexually. After parental visits, Hannah would often have emotional difficulties.

Between the 18-month review hearing in June 2002, and the beginning of the permanency hearing in October 2002, Hannah had only seen the older siblings a few times. The social worker understood the court had ordered weekly sibling visits. During the one month break in the permanency planning hearing, weekly sibling visits between the older children, Hannah and Tyler resumed. The social worker testified Hannah's asthma and nightmares after visits cause some problems with visitation. All of the caretaker/prospective adoptive parents indicated they were willing to continue sibling visitation after adoption. Visits between Hannah and the five older children were generally positive. The social worker testified Aislinn and Courtney had a strong relationship with Hannah, and it would be detrimental to discontinue visitation between them after adoption.

Hannah and Tyler had only visited once every month or two. The social worker admitted he did little to facilitate those visits. The social worker did not believe Hannah and Tyler had a significant relationship, but agreed that without more visits such a relationship would be hard to establish. He conceded the SSA was at fault for Hannah's lack of visits with Tyler.



Finally, Tyler (age 22 months) was developing normally, and was a happy baby. Tyler was placed in a prospective adoptive home about three months before the permanency hearing. The social worker testified Tyler had a strong bond with his new foster parents and the adoptive home study had been approved. Since the 18-month review hearing in June 2002, Tyler had only visited his older siblings once, and had not seen Hannah. The social worker had not pushed visits because he did not want to overburden the new foster parents. Tyler's prospective adoptive parents were open to allowing sibling visits following adoption. The social worker testified that Tyler did not have a strong bond with his siblings, but would benefit from future visitation with them. He recommended adoption of Tyler even if it meant separation from his siblings.

At the conclusion of the hearing, the court terminated parental rights, found the children were likely to be adopted, and found none of the exceptions to the statutory preference for adoption as the permanent plan applied. In its order, the court approved and incorporated into its order the sibling visitation plan recommended by SSA which included monthly sibling visitation between all siblings.

## II

Jason, Sr., and Lisa contend the finding that the five older children, Aislinn, Courtney, Jason, Jr., Justin, and Ryan, are adoptable is not supported by substantial evidence. We disagree.

At a hearing under section 366.26, the court is required to select and implement a permanent plan for a dependent child. Where there is no probability of reunification with a parent, adoption is the preferred permanent plan. (*In re Edward R.* (1993) 12 Cal.App.4th 116, 122.) In order for the court to select and implement adoption as the permanent plan, it must find, by clear and convincing evidence, the minor will likely be adopted if parental rights are terminated. (§ 366.26, subd. (c)(1).) The parent then has the burden to show termination would be detrimental to the minor under one of five specified exceptions. (§ 366.26, subd. (c)(1)(A)-(E).) "In the absence of evidence

termination would be detrimental to the minor under one of these exceptions, the court ‘shall terminate parental rights. . . .’ (§ 366.26, subd. (c)(1).” (*In re Tabatha G.* (1996) 45 Cal.App.4th 1159, 1164.)

Substantial evidence supports the court’s finding that the children are likely to be adopted. “We review the factual basis of a termination order to determine whether the record contains substantial evidence from which a reasonable trier of fact could find a factual basis for termination by clear and convincing evidence. [Citation.]” (*In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1154.)

“The issue of adoptability posed in a section 366.26 hearing focuses on the *minor*, e.g., whether the minor’s age, physical condition, and emotional state make it difficult to find a person willing to adopt the minor. [Citations.]” (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649.) Although it is not necessary that there be a proposed adoptive parent “‘waiting in the wings,’” “[u]sually, the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor’s age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent’s willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent *or by some other family.*” (*Id.* at pp. 1649-1650.)

Jason, Sr., and Lisa contend that the five older children are simply too damaged emotionally to be adoptable. They argue that the sole basis for the court’s having found them adoptable is the foster parents’ desire to adopt. And under the circumstances, they urge, the chances of that actually happening is simply too speculative to permit termination of parental rights at this time. We reject their claim.

While it certainly is true that the five older children, in particular the three boys, have emotional and behavioral problems, it is abundantly clear that the longer these children are away from the parents in a safe, stable, and loving home, the healthier they

become. There is no indication the emotional and behavioral problems are so severe as to preclude the court from making a finding of adoptability. (*In re Lukas B.*, *supra*, 79 Cal.App.4th at p. 1154.) Aislinn and Courtney were doing well in therapy, and while they both suffered from mild depression, they had made great strides in working through issues regarding the sexual abuse they had endured. Jason, Jr.'s, aggression and sexualized behavior had subsided, he needed less supervision, was making friends, and engaging in age-appropriate behavior. Justin's autistic behavior was abating. He was thriving in school and had even been placed in a program for mentally gifted students. Ryan's aggressive and angry behavior improved dramatically once parental contact was halted. He was becoming increasingly calm and could participate in kindergarten class with an assistant.

What appears to be lost on the parents is that the emotional and behavioral problems the five older children suffer from are directly related to the abuse inflicted on them by the parents. (See *In re Jeremy S.* (2001) 89 Cal.App.4th 514, 523.) The galling cynicism of the parents' argument, i.e., that they so completely devastated their children by their abuse that the children are now unfit for adoption, is not lost on us.

The parents complain that the court improperly relied on the foster parents' (Carol and Art's) desire to adopt the five older children in order to find them adoptable. They speculate that such an outcome might be in doubt given that the foster mother *might* have a criminal record that might potentially preclude her from becoming an adoptive parent.

The parents rely upon a notation in the SSA report for the permanency planning hearing that criminal history records had been completed for the foster parents and there were "no findings on the adults in the household, except the prospective adoptive mother. Therefore, the Kinship Center is taking 60 days to investigate the findings." The parents concede that they made no inquiry about this notation at the permanency planning hearing. Furthermore, they did not object to the adequacy of the

adoption assessment and did not request the court to continue the permanency hearing until the Kinship Center's investigation was complete. (See *In re Crystal J.* (1993) 12 Cal.App.4th 407, 411-412 [by failing to object to the assessment reports at the section 366.26 hearing, appellant waived the issue of inadequacy of the reports on appeal].)

The parents' reliance on *In re Jerome D.* (2000) 84 Cal.App.4th 1200, is misplaced. In that case, the court held a finding of adoptability could not be based solely on the fact that the mother's boyfriend was willing to adopt. Absolutely no assessment of the boyfriend as an adoptive parent had been done. He in fact had a criminal record that included an extensive record of domestic violence on the mother in the presence of the minor and had been listed as a "perpetrator" with child protective services for emotional abuse of his nieces and nephews. Furthermore, the mother and the minor had a beneficial relationship, and the minor did not want to have his relationship with his mother terminated. The court concluded that under the circumstances, the finding of adoptability could not be based solely on the boyfriend's interest in adopting. (*Id.* at p. 1205.)

Here, the five older children have been living with Carol and Art since the outset of this dependency proceeding (almost two years), are bonded with them, consider them as their parents, and are adamant they do not ever want to return to the parents. In Carol and Art's care, the children's emotional and behavioral problems have improved. The criminal records check turned up something unspecified about the prospective adoptive mother meriting an additional 60 days to investigate. But these prospective adoptive parents were already licensed foster care parents, a process that itself required them to have already passed a criminal records check to ensure they were suitable caretakers. (See *In re Dakota S.* (2000) 85 Cal.App.4th 494, 504; Health & Saf. Code, § 1522, subd. (d).) Furthermore, we note that as of the time the briefing was fully completed in this appeal, in April 2003, the five older children continued in the placement with Carol and Art. We can safely assume from the fact that no further

comment was made about the foster mother's record, it was found to be of no consequence.

### III

The parents next contend the trial court erred in not applying the sibling benefit exception to adoption as the preferred permanent plan. We disagree.

Once the court has made a finding of adoptability, the burden shifts to the parents to show termination would be detrimental to the minor under one of the exceptions listed in section 366.26 subdivision (c)(1). (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108.) Section 366.26, subdivision (c)(1)(E) provides an exception to terminating parental rights when: "There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption." (Underscoring omitted.) Although it was their burden to establish the benefit exception applies, the parents presented absolutely no evidence supporting application of the sibling benefit exception. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 252.)

First, there is no evidence the relationships between the siblings will necessarily cease upon termination of parental rights. (See *In re Jacob S.* (2002) 104 Cal.App.4th 1011, 1019.) Here, the five older children live together and are being adopted by their foster parents. The younger children, Hannah and Tyler, are in separate adoptive homes, but all of the prospective adoptive parents have expressed their willingness to facilitate future sibling visitation. The social worker testified the children would benefit from continuing to have relationships with each other; the court ordered continued monthly visitation between them. The parents speculate that the adoptive

parents will not make good on their promises to facilitate visitation and the older children will be cut off from their relationships with the younger children. But their speculation is based on the social worker's failure to follow through with court ordered visitation during the four months between the 18-month review hearing and the permanency planning hearing, not any refusal on the foster parents' parts to permit visitation. During the one month break in the hearing, all of the foster parents facilitated weekly visits and have said they will do so in the future.

Even if we were to assume there would be interference with the sibling relationships, there was no evidence that the relationships between Hannah, Tyler, and the older children were such that any detriment they would suffer from terminating the relationships would outweigh the benefits of permanent adoptive homes. Tyler, taken into custody at birth, has never lived with any of his siblings. Hannah has lived apart from them since age two. The social worker testified that Tyler had no bonds with his older siblings. Hannah had some bonds with the two older girls, and benefited from contact with them, but she had little interaction with the boys during the visits.

Implicitly acknowledging that they failed to present any evidence of the depth of the relationships between the older children, Hanna, and Tyler, or of the detriment they would suffer if those relationships were disrupted, the parents argue SSA failed to promote adequate visitation between the two younger children and their older siblings so as to permit such relationships to develop. Thus, they contend, they were deprived of the evidence that would have permitted application of the sibling benefit exception.

Up until the 18-month review, sibling visitation was in the context of family visits. At some point the older children refused to participate in visits with the parents. At the 18-month review, the court ordered weekly sibling visits, but the social worker did little to make sure such visits were in fact taking place. It does appear there were some extenuating circumstances making it more difficult for such frequent visits—

difficulty of arranging school and extracurricular schedules of seven children, Jason, Jr.'s, inappropriate sexual contact with Hanna during an earlier visit, Hanna's emotional reaction after visits with her siblings, the placement of Tyler with a new prospective adoptive family, and the social worker's desire to not overburden the prospective adoptive parents. Regular weekly visits did resume during the one month break in the permanency planning hearing. In rejecting application of the sibling benefit exception, the court specifically found that the few months of missed visits were "insignificant compared to the large picture of the entire lives of these children." Tyler, who had lived his entire life away from his siblings, had no significant relationship with them and there was no evidence that he would suffer detriment should the relationships be disrupted. The court found Hanna did have a significant relationship with her older siblings, but there was no evidence of detriment if the relationships were terminated.

Taking into consideration the poor visitation schedule, and recognizing that the social worker should have done much more to promote visits between the older children and the younger children, we will not punish the children for those failures by denying them the security of safe and stable adoptive homes. The parents have failed to present any evidence that any interference with the children's sibling relationships would cause detriment to them outweighing the benefits of an adoptive home. Accordingly, we will not disturb the court's findings.<sup>2</sup>

#### IV

Jason, Sr., contends the children were denied effective assistance of counsel because up until the time of the permanency planning hearing six of the children were represented by the same counsel. We reject his argument.

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<sup>2</sup> In his reply brief, Jason, Sr., suggests we should remand with directions that the court impose sanctions against the social worker and SSA for failing to abide by the visitation schedule ordered at the 18-month review. We decline to consider such a point raised for the first time on appeal.

Throughout much of this proceeding, all of the children, except Jason, Jr., were represented by one attorney. At the commencement of the permanency planning hearing, that attorney declared a conflict of interest. The court relieved the original attorney, and appointed three new attorneys to represent the siblings—one for Tyler, one for Hanna, and one for Aislinn, Courtney, Justin and Ryan. Jason, Jr., continued to be represented by his separate counsel. The permanency planning hearing was continued for one month. Because separate counsel was appointed, any actual conflict of interest due to one counsel's representation of divergent interests of the minors was cured. (See *In re Celine R.* (July 7, 2003) \_\_\_ Cal.4th \_\_\_, \_\_\_ [2003 WL 21518400] [court must appoint separate counsel for siblings when there is an actual conflict of interests].)

To prevail on a claim of ineffective assistance of counsel, Jason, Sr., must demonstrate, “(1) counsel’s representation falls below an objective standard of reasonableness and (2) the deficiency subjects defendant to demonstrable prejudice. [Citations.]” (*In re Nada R.* (2001) 89 Cal.App.4th 1166, 1180.) He offers absolutely no argument that the newly appointed attorneys were in any way ineffective. Rather, he focuses on the original attorney and essentially urges that because she eventually declared a conflict, she was incompetent and had failed to adequately investigate.

We will not infer from the fact that a conflict eventually arose, that it was there all along. As our Supreme Court has recently pointed out it is generally appropriate to appoint only one attorney to represent multiple siblings and the mere “potential for conflict that inheres in all multisibling dependency cases” does not require appointment of separate counsel. (*In re Celine R., supra*, \_\_\_ Cal.4th at p. \_\_\_ [2003 WL 21518400].) Furthermore, Jason, Sr.’s, argument is based entirely on rank speculation regarding practices and competency of minors’ trial counsel in general that we will not dignify by commenting upon here. Suffice it to say, there simply is no record upon which we can say minors’ original trial counsel or those appointed at the permanency planning hearing were in any way deficient.



V

Finally, Jason, Sr., complains the court failed to consider or order continued sibling visitation in violation of section 16002. His failure to raise the point in the court below waives it on appeal. (*In re Anthony P.* (1995) 39 Cal.App.4th 635, 640-642.) And in any event he is wrong. The court specifically ordered continued sibling visitation when it approved and incorporated SSA's proposed plan for monthly visits into the order terminating parental rights.

The order is affirmed.

O'LEARY, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

BEDSWORTH, J.